



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, D.C. 20350

IN REPLY REFER TO

OPNAVINST 5710.25
Ser 09/501200
28 April 1978

OPNAV INSTRUCTION 5710.25

Subj: International Agreements OPNAV Procedures

Ref: (a) DOD Directive 5530.3 of 3 Nov 76 (NOTAL)
(Implemented by SECNAVINST 5710.25)
(b) DODINST 2050.1 of 6 Jul 77 (NOTAL)
(Implemented by SECNAVINST 5710.25)
(c) SECNAVINST 5710.25 of 10 Aug 77
(d) OPNAVINST 5710.24 of 28 Apr 78
(e) OPNAVINST 5430.48A of 9 May 77 (NOTAL)
(f) DOD Directive 2100.3 of 11 Jul 63

Encl: (1) Examples Concerning Authority and Procedures

1. Purpose and Applicability

a. Pursuant to references (a) through (d), this instruction promulgates responsibilities and procedures applicable within the Office of the Chief of Naval Operations (OPNAV) concerning the control over, and management of, international agreements, the maintenance of negotiating history files, and related matters.

b. This instruction does not apply to international agreements related to intelligence and cryptologic support matters, which will be the subject of separate instructions.

2. Background

a. Definition. The definitions set forth below supplement those promulgated by Section III of reference (a), paragraph 4 of reference (c) and paragraph 4 of reference (d).

(1) Approval authority is defined as the authority to grant or deny (with or without modification or guidance) requests for authority to negotiate and/or conclude international agreements. Care should be taken not to confuse a request for delegation of approval authority for a specified category of international agreements with a request for authorization to initiate a specific international negotiation and/or conclude a specific international agreement.

OPNAVINST 5710.25

28 APR 1972

The former concerns who has approval authority (general authority to make decisions), and the latter concerns the exercise of approval authority (a decision affecting only one negotiation or agreement).

(2) The scope of the term "organizational element" is not specifically defined in reference (a) and, therefore, encompasses organizational elements as broad as the Department of the Navy and as narrow as a branch of OPNAV.

(3) The OPNAV Organization Manual, reference (e), sets forth the functional responsibilities of each office of OPNAV. The term "functional office", as used in this instruction, refers to the office having primary functional responsibility for the subject of an international agreement (such as the Deputy Chief of Naval Operations (Logistics) (Op-04) for a logistics agreement or the Director, Office of Research, Development, Test and Evaluation (Op-098), for a research and development agreement), as opposed to the responsibility of the Director, Politico-Military Policy Division (Op-61), for international agreements in general.

b. Requirements

(1) The following basic requirements are set forth in reference (a):

(a) Requirements concerning control over, and management of, approval authority

(b) Requirements concerning procedures which will assure the compilation, retention and retrievability of negotiating history files

(c) Requirements for the monitoring of compliance with the provisions of references (a) and (f). Reference (f) has to do with U.S. policy concerning commitments to foreign governments under the foreign assistance program.

(2) It is required by Section IXB of reference (a) that each organizational element of the Department of Defense (DOD), not part of the Office of the Secretary of Defense (OSD), which negotiates international agreements shall promulgate regulations to implement reference (a) and shall, in its regulations, designate a Single (or Central) Office of Record to perform specified functions.

28 APR 1970

(3) By paragraph 5 of reference (c), the Central Office of Record designated by the Chief of Naval Operations (CNO) is directed to fulfill the requirements of the Secretary of the Navy (SECNAV) for such an office, and the Judge Advocate General (JAG), who maintains the Department of the Navy Central Repository, is directed to advise the OPNAV Central Office of Record of the receipt of each concluded international agreement. By paragraph 4d(1) of reference (c), SECNAV directed CNO to act as his designee for the submission to the Assistant Secretary of Defense (International Security Affairs) (ASD(ISA)) of any request for authorization to negotiate and/or conclude a specific international agreement. By paragraph 5d of reference (d), the Deputy Chief of Naval Operations (Plans, Policy and Operations) (Op-06) is directed to exercise overall policy and management control within the Navy over the implementation of references (a) through (d). By paragraph 5e of reference (d), Op-61 is designated the OPNAV Central Office of Record in compliance with Section IXB of reference (a).

3. Concept

a. It is intended to meet the requirements set forth in subparagraph 2b, above, with minimum disruption of established lines of authority and presently assigned functional responsibilities, including those set forth in the OPNAV Organization Manual, reference (e). Because of the special significance of international agreements, however, particularly stringent control over the exercise of approval authority is required. By reference (d), therefore, delegations of approval authority to subordinate commanders are closely limited, the exercise of approval authority in behalf of each of those commanders is restricted to his principal deputy, guidance concerning the exercise of approval authority is provided, and requirements and procedures for monitoring compliance are set forth.

b. Within the broad management control of Op-06, OPNAV functional offices (defined in paragraph 2a(3), above) shall have primary responsibility on behalf of SECNAV and CNO for all matters within their functional areas of responsibility which are related to references (a) through (d) and this instruction, including:

(1) Accomplishment of all required preparation, coordination and other staffing of proposed agreements,

OPNAVINST 5710.25

28 APR 1973

(2) Full consideration of all factors bearing on the required decision,

(3) Compilation, retention and retrievability of negotiating history files, and

(4) Within their functional areas of responsibility, monitoring compliance with references (a) through (d) throughout the Navy.

c. The only officers within OPNAV who are authorized to exercise approval authority for the CNO are the Vice Chief of Naval Operations or the cognizant Deputy Chief of Naval Operations (DCNO) (or Director of a Major Staff Office (DMSO)) or his principal deputy.

d. Authority, responsibility, and procedures within OPNAV concerning international agreements are set forth in paragraph 4, below. In addition, examples are provided in enclosure (1). They are provided to clarify the limits of authority and to clarify procedural relationships.

4. Authority, Responsibility and Procedures

a. General

(1) Op-06, pursuant to the provisions of this instruction and subparagraph 5d of reference (d)

(a) Shall exercise overall policy and management control over implementation of this instruction

(b) When required, shall receive, transmit, or coordinate all communication by organizational elements of the Department of the Navy with the Office of ASD (ISA).

(2) Op-61, pursuant to the provisions of this instruction and subparagraph 5e of reference (d) and in coordination with OPNAV functional offices shall fulfill the pertinent requirements of the OPNAV Central Office of Record set forth in subparagraphs 4b and 4c, below.

(3) Each OPNAV Functional Office, concerning international agreements matters within its areas of responsibility, in coordination with Op-61

(a) Shall fulfill pertinent requirements of the OPNAV Central Office of Record set forth in subparagraphs 4b and 4c, below

(b) Shall exercise primary cognizance for SECNAV and CNO on all international agreements matters, including a thorough review of all relevant factors, following full coordination with all concerned (see enclosure (1) of reference (d)).

(c) When required, shall receive, transmit, or coordinate all communications by organizational elements of the Department of the Navy with OSD, except those with the Office of ASD(ISA)

(d) Shall inform Op-61 when negotiations are initiated or concluded, when communications cited in subparagraph (c), above, take place, and when approval authority is exercised

(e) Shall compile and retain such negotiating history files as they have accumulated for negotiations conducted by offices of OPNAV

(4) Legal Review. Within OPNAV, legal reviews required by paragraph 7c of reference (d) shall be conducted by the Office of JAG and, when appropriate, the Office of Navy General Counsel.

b. OPNAV Central Office of Record

(1) Responsibilities set forth below are keyed to Section IXB of reference (a).

(a) Request for authorization to initiate a specific international negotiation and/or conclude a specific international agreement received by SECNAV or CNO from a subordinate

1. The OPNAV functional office having primary responsibility pursuant to reference (e) shall be assigned primary action for each request. This office shall take appropriate action, record the action taken, and assure that copies of the request and the response are made known to Op-61. Attention is directed to guidance concerning the exercise of approval authority set forth in reference (d), particularly paragraph 5b and enclosure (1) thereof.

28 APR 1978

2. Op-61 shall maintain a record of the OPNAV office assigned primary action for each request and record the action taken thereon.

(b) Request for coordination received by SECNAV or CNO from another organizational element of DOD

1. Assignment of responsibilities set forth in subparagraph 4b(1)(a), above, applies.

(c) Request for an authorization to initiate a specific international negotiation and/or conclude a specific international agreement submitted by SECNAV (or by CNO for SECNAV) to ASD (ISA) or another official of the Office of the Secretary of Defense (OSD) to whom approval authority is delegated

1. The OPNAV functional office shall exercise primary cognizance for required action and shall forward each request to Op-61 for submission to the office of ASD (ISA) or, if appropriate, clear the request with Op-61 prior to submission to other offices of OSD.

2. Op-61 shall submit each such request for authorization to ASD (ISA) (if appropriate) and record the authorization (or denial of authorization) received from OSD and assure that a copy is routed to the OPNAV functional office having primary responsibility.

(d) Compilation, retention, and retrievability of complete negotiating history files

1. The OPNAV functional office which bears primary responsibility for a particular negotiation conducted by SECNAV or CNO (or by OPNAV for SECNAV or CNO) shall, upon completion of that negotiation, compile such negotiating history files as they have accumulated, so inform Op-61, and assure that information is recorded which will permit accurate retrieval of documents, including those transferred to the Federal Records Center.

2. The OPNAV functional office which bears primary responsibility for a particular negotiation conducted by a command subordinate to CNO or by a subordinate of SECNAV other than CNO shall, upon completion of that negotiation, compile, retain, and assure retrievability of appropriate negotiating history file documents.

28 APR 1978

3. Op-61 shall maintain a record of which OPNAV functional office has compiled, and is responsible for, retention and retrievability of each such negotiating history file.

(e) Monitoring compliance within the Department of the Navy (including the monitoring of proper exercise of approval authority and the compilation, retention, and retrievability of negotiating history files by subordinates of SECNAV and CNO)

1. Op-61 shall monitor compliance with the provisions of this instruction and references (a) through (d).

2. In coordination with Op-61, each OPNAV functional office, within its area of responsibility (as assigned by reference (e)), shall monitor compliance with the provisions of references (a) through (d).

3. Attention is directed to guidance concerning the monitoring of compliance, set forth in paragraph 5c of reference (d).

(2) Upon notification of the OPNAV Central Office of Record by JAG (pursuant to paragraph 5a(1)(c) of reference (c)) that a concluded international agreement has been filed in the Navy Central Repository, Op-61 shall record that fact and inform the cognizant functional office.

c. Correspondence and Message Procedures

(1) The OPNAV Mail and Files Branch (Op-09B14) and the OPNAV Telecommunications Center (Op-941B1) shall route action copies of correspondence and messages concerning the subjects indicated below to appropriate OPNAV functional offices and either route information copies to Op-61 or insure that Op-61 is on the route slip or distribution, as appropriate:

(a) Requests for authorization to initiate specific international negotiations and/or conclude specific international agreements originated within the Department of the Navy (messages should contain the code word "INTAG", in accordance with paragraph 7b of reference (d)).

OPNAVINST 5710.25

28 APR 1970

(b) Requests for coordination of such requests originated within another organizational element of the Department of Defense.

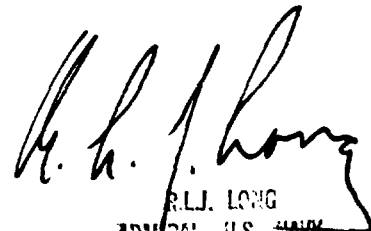
(2) The OPNAV office assigned functional responsibility pursuant to reference (e):

(a) Shall include Op-61 on the OPNAV distribution of messages and correspondence which the office originates concerning authorizations (or denials of authorization) to initiate specific international negotiations and/or conclude specific international agreements and requests for coordination of such requests.

(b) Incident to staffing of correspondence and messages, shall obtain copies of all briefing memoranda which constitute part of a negotiating history file, as well as copies of Outgoing Mail Records, routing slips, file copies of correspondence and "back route" copies of messages, etc., which reflect staffing effected on requests for authorization to initiate specific international negotiations and/or conclude specific international agreements, the granting or denial of such requests, and requests for coordination of such requests.

(c) Shall comply with the provisions of paragraph 7b of reference (d) concerning use of the code word "INTAG" on messages.

5. Changes. Recommendations concerning changes to references (a) through (d) and this instruction and requests for redelegations of approval authority to SECNAV by organizational elements of the Office of the Secretary of Defense shall be submitted to Op-06 for appropriate action.


R.L.J. LONG
ADMIRAL, U.S. NAVY
VICE CHIEF OF NAVAL OPERATIONS

Distribution:

SNDL A1 (Immediate Office of SECNAV)
A4A (CHNAVMAT)
A5 (BUMED, only)
A6 (CMC)

OPNAVINST 5710.25

28 APR 1973

Distribution (Continued):

21A (Fleet Commanders in Chief)
FD1 (OCEANAV)
FE1 (COMNAVSECGRU)
FF6 (NAVOBSY)
FG1 (COMNAVTELCOM)
FS1 (COMNAVINTCOM)

All Divisions of OPNAV

ASD(ISA)

DOD General Counsel

Stocked:

CO, NAVPUBFORMCEN
5801 Tabor Ave.
Phila., PA 19120

28 APR 1978

EXAMPLES CONCERNING AUTHORITY AND PROCEDURES

The following examples, which are hypothetical, are intended to illuminate the manner in which international agreements shall be staffed. It is important to realize, however, that there is a great variety of types of international agreements and that required staffing is equally varied.

EXAMPLE A1. Prior to initiation of negotiations

- a. The Philippine Navy proposes to Commander Naval Forces Philippines (COMNAVPHIL) that an agreement concerning logistic support at Subic Bay be negotiated.
- b. COMNAVPHIL considers that such an agreement would be desirable, that the proposed negotiation would be subject to reference (a), that approval authority for the proposed negotiations is delegated to SECNAV by Section C2 of reference (b), further to CNO by reference (c), and thence to CINCPACFLT by paragraph 2 (Category Two) of paragraph 2 (Category Two) of enclosure (3) to reference (d).
- c. Not having been granted authority to initiate negotiations by CINCPACFLT pursuant to paragraph 3b(2) of enclosure (3) to reference (d), COMNAVPHIL submits all details (including addressal of legal and fiscal considerations) to CINCPACFLT (pursuant to CINCPACFLT's implementing instruction), with a request for authorization to initiate negotiations.
- d. CINCPACFLT considers that approval authority for the proposed negotiations is in fact delegated to him, because it may lead to a minor logistic support agreement.
- e. CINCPACFLT and/or COMNAVPHIL keep unified commands informed, if appropriate, pursuant to Section E2a of reference (b).

Enclosure (1)

28 APR 1978

- f. Because of political sensitivities, however, CINCPACFLT elects to submit the request (by message) to CNO. This action is consistent with paragraph 4d(2) of reference (c) and paragraph 7a(2) of reference (d).
- g. The OPNAV Telecommunications Center (Op-941B1), pursuant to paragraph 4c(1) of this instruction, routes the message for action to the appropriate OPNAV functional office (Op-04) and insures that Op-61 is on the message distribution.
- h. The appropriate Op-61 area branch (Op-612) records the request in OPNAV Central Office of Record files.
- i. Op-41, to whom action is assigned by Op-04, coordinates a decision memorandum with all offices concerned, including NJAG (Code 10) for consideration of legal issues, Op-612 for politico-military issues, Op-009D for disclosure issues, and Op-92 for fiscal impact. This staffing includes a review of the determinations made by CINCPACFLT, the guidance set forth in enclosure (1) of reference (d), and all other information available.
- j. Although Op-04 is authorized to exercise approval authority by paragraph 3c of this instruction, he elects to submit the issue to the VCNO for decision.

2. Authorization to initiate negotiations

- a. By approving the recommendation of Op-04, the VCNO exercises approval authority. This could have been accomplished by the VCNO's releasing a message reflecting the decision. The VCNO also stipulates that CINCPACFLT should conclude the agreement (that is, sign it for the US), if one results.
- b. The Op-41 decision memorandum and any significant associated memoranda, all of which constitute part of the negotiating history, are retained by the cognizant office of Op-41.
- c. Op-612 is informed of the decision, in order to permit its recording in Central Office of Records files.

Enclosure (1)

28 APR 1978

- d. Op-41 drafts and Op-04 releases message to CINCPACFLT, authorizing the initiation of negotiations, providing appropriate guidance, and directing that the proposed agreement be submitted to CNO for approval.

3. Conducting negotiations

- a. CINCPACFLT directs COMNAVPHIL to initiate negotiations and provides appropriate guidance.
- b. A draft memorandum of understanding results from the negotiations.

4. Authorization to conclude the agreement

- a. The draft and complete supporting rationale, including consideration of legal and fiscal issues, are submitted (by letter) to CNO via CINCPACFLT pursuant to summary procedures set forth in paragraph 7a(2) of reference (d).
- b. The OPNAV Mail and Files Branch (Op-09B14) routes the letter to Op-04 for action, and Op-41 insures that Op-612 is advised of its receipt, in order to permit the update of Central Office of Record files.
- c. Op-41 conducts a full review of the proposed agreement, including coordination with NJAG (Code 10) for legal issues, Op-612 for politico-military issues, and Op-92 for fiscal impact.
- d. As a result of review of the guidance set forth in enclosure (1) of reference (d), the draft MOU is coordinated with Op-009D for possible disclosure impact.
- e. Because of foreign policy issues, Op-06 directs Op-612 to obtain a chop by OASD(ISA).
- f. Op-04 determines that the proposed MOU is consistent with previous VCNO guidance and, having reviewed all issues and insured full staffing, elects to exercise approval authority. For CNO, Op-04 authorizes conclusion of the MOU.

Enclosure (1)

28 APR 1978

- g. Op-41 releases a CNO message to CINCPACFLT, authorizing the conclusion of the MOU and directing CINCPACFLT to be the US signatory.
- 5. Conclusion of the agreement
 - a. CINCPACFLT concludes the MOU with the Philippine Navy.
- 6. Submission of concluded agreement
 - a. Pursuant to paragraph 7f of reference (d), five reproducible certified copies of the concluded MOU are submitted to NJAG; and one additional copy, to CNO via the chain of command.
 - b. Upon receipt, NJAG informs Op-61, and Op-612 informs Op-41.
- 7. Compilation and retention of negotiating history
 - a. Pursuant to paragraph 7g of reference (d), all offices and commands concerned compile and retain such unique negotiating history records as they have accumulated.
 - b. Two years after conclusion, Op-41 transfers the subject Op-41 negotiating history files to the Federal Records Center, retains a catalogue of documents, and provides Op-612 a copy of the transfer document citation for entrance into the Central Office of Record files.
- 8. Retrieval of information
 - a. Ten years after conclusion, OASD(ISA) asks SECNAV questions about all existing agreements with the Philippine Navy and a problem related to an ongoing negotiation. CNO is directed to respond.
 - b. All of the concluded agreements are identified through records maintained by NJAG, double checked by Op-61 Central Office of Records files.
 - c. By referral to Central Office of Record files, Op-612 determines that Op-41 was the cognizant

Enclosure (1)

28 APR 1976

office and responsible for retention of the subject OPNAV negotiating history files and that CINCPACFLT and COMNAVPACFLT also hold negotiating history files.

- d. Op-41 recovers the subject negotiating history files from the Federal Records Center, and an inquiry is sent to CINCPACFLT.
- e. By consulting their Central Offices of Record, CINCPACFLT and COMNAVPACFLT recover their negotiating histories for the subject MOU.
- f. The OASD(ISA) inquiry is answered.

EXAMPLE B

1. Prior to initiation of negotiations

a. Discussions between the U.S. Navy and the Federal Republic of Germany indicate that there is a mutual operational requirement for a particular weapon system.

b. Upon consideration of the issue, the appropriate office of Op-098 tentatively concludes that joint development is desirable and that an international agreement with Germany is required.

c. Approval authority for the category of international agreements encompassing the proposed negotiation is delegated by Section C6 of reference (b) to the Under Secretary of Defense Research and Engineering (USDR&E).

d. In order to initiate negotiations, CNO must submit a request to USDR&E. Consideration is given to preparing the request for the signature of SECNAV pursuant to paragraph 4d(2) of reference (c). Consideration also is given to preparing the request for the signature of CNO or VCNO, but Op-098 concludes that the nature of the proposed negotiation does not require a decision by CNO or VCNO.

e. Op-098F prepares a request for Op-098 signature and staffs it. The request includes a brief description of the weapon system and the reason and plan for its joint development. Because the request must be submitted to OSD,

Enclosure (1)

OPNAVINST 5710.25

28 APR 1978

it is required, pursuant to Section E1 of reference (b), that the request be in accordance with the standard procedures described in Section VIIA of reference (a). Accordingly, Op-098 provides a legal memorandum prepared by the negotiating lawyer and a fiscal memorandum prepared in coordination with the Navy Comptroller, together with other appropriate supplemental material.

f. Staffing includes all offices concerned: NJAG (Code 10) and the Office of Navy General Counsel for consideration of legal issues, Op-614 for politico-military issues, Op-92 for fiscal impact, and the Assistant Secretary of the Navy (Research, Engineering and Systems) (ASN(RE&S)) pursuant to paragraph 4d(3) of reference (c). The staffing includes a review of the guidance set forth in enclosure (1) of reference (d) and all other information available.

g. The appropriate Op-61 area branch (Op-614) records the request in OPNAV Central Office of Record files.

h. In order to obtain an expeditious response, Op-098F elects to hand carry the signed request to USDR&E, but he insures that it is recorded by the OPNAV Mail and Files Branch (Op-09B14) for record purposes.

2. Authorization to initiate negotiations

a. After conducting appropriate staffing at the OSD level, USDR&E approves the request. This decision constitutes the exercise of approval authority.

b. The letter by which USDR&E conveys the authorization for CNO to initiate negotiations is received by the OPNAV Mail and Files Branch (Op-09B14), which routes it to Op-098 for action. Op-098F insures that Op-614 is advised of its receipt, in order to permit the updating of Central Office of Record files.

3. Conducting negotiations

a. Op-098F, assisted by a systems command, conducts the negotiations.

b. A draft international agreement results from the negotiations.

Enclosure (1)

28 APR 1978

4. Authorization to conclude the agreement

a. Because the request for authorization to conclude the agreement must be submitted to OSD, it is required, pursuant to Section E1 of reference (b), that the request to USDR&E be in accordance with the standard procedures described in Section VIIA of reference (a).

b. In addition to the proposed agreement, Op-098 provides a legal memorandum prepared by the negotiating lawyer and a fiscal memorandum prepared in coordination with the Navy Comptroller, together with other appropriate supplemental material.

c. Op-098F coordinates the proposal in the following sequence prior to submission to USDR&E: appropriate Op-098 offices, the OPNAV program sponsor, appropriate Op-60, Op-35, Op-22, Op-50, and Op-095 offices, Op-614 (for politico-military review and updating Central Office of Record files), U.S. Navy Comptroller, appropriate systems command (including coordination with contract/patent lawyers), NJAG (Code 10), Op-009D2 (for disclosure implications), ASN(RE&S) with briefing sheet.

d. Op-098 determines that Navy staffing is complete and for CNO forwards the proposal to USDR&E.

e. USDR&E reviews the proposal, conducts full OSD level staffing, concludes that the proposed agreement should be concluded, and addresses a letter to CNO, authorizing CNO to conclude the proposed agreement.

f. The OPNAV Mail and Files Branch (Op-09B14) routes the letter to Op-098. Op-098 insures that Op-614 is advised, in order to permit the updating of Central Office of Record files.

5. Conclusion of the agreement

a. For CNO, Op-098 forwards the agreement to the foreign government for signature. Upon receipt of the agreement concluded by the foreign government, Op-098 signs the agreement for the U.S. Government.

6. Submission of the concluded agreement

a. Five reproducible certified copies of the concluded agreement are submitted directly to NJAG, pursuant to

Enclosure (1)

OPNAVINST 5716.25

28 APR 1976

paragraph 7e of reference (d), and one copy is submitted to CNO via the chain of command.

b. Upon receipt, NJAG (Code 10) forwards copies pursuant to paragraph 5a(1)(c) of reference (c) and informs Op-61; Op-6 updates Central Office of Record files.

7. Compilation and retention of negotiating history

a. Pursuant to paragraph 7g of reference (d), all offices concerned compile and retain such unique negotiating history records as they have accumulated. Within OPNAV, all files on this negotiation are maintained by Op-098 (or for him by the Office of Naval Research for Op-098).

Enclosure (1)